

# United States District Court

EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION

UNITED STATES OF AMERICA

vs.

DONALD LEROY COSGROVE, JR.

§  
§  
§  
§  
§

Case No. 4:06cr28  
(Judge Schneider)

## **REPORT AND RECOMMENDATION** **OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Judge referred the matter to this Court for a report and recommendation, the Court conducted a hearing on July 21, 2011, to determine whether Defendant violated his supervised release. Defendant was represented by Denise Benson. The Government was represented by Ernest Gonzalez.

On November 16, 2006, Defendant was sentenced by the Honorable Michael H. Schneider to forty-six (46) months' custody followed by three (3) years of supervised release for the offense of Felon in Possession of a Firearm. On July 8, 2009, Defendant completed his period of imprisonment and began service of his supervised term.

On January 24, 2011, the U.S. Probation Officer executed a Petition for Warrant for Offender Under Supervision. The petition asserted that Defendant violated the following mandatory conditions: (1) the defendant shall not commit another federal, state, or local crime; and (2) the defendant shall not unlawfully possess a controlled substance. The petition also alleges a violation of the following standard condition: the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance, or any paraphernalia, except as prescribed by a physician.

Prior to the Government putting on its case, Defendant entered a plea of true to all of the

violations. The Guideline range for the B violation is imprisonment for eighteen to twenty-four months. The Guideline range for the C violation is imprisonment for seven to thirteen months. The Court recommends that Defendant's supervised release be revoked. The Court further finds there is cause to downward depart.

### **RECOMMENDATION**

The Court recommends that the District Judge revoke Defendant's supervised release. Pursuant to the Sentencing Reform Act of 1984, the Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of thirteen (13) months with no supervised release to follow. It is also recommended that Defendant be housed in the Bureau of Prisons, Seagoville Unit.

After the Court announced the recommended sentence, Defendant executed the consent to revocation of supervised release and waiver of right to be present and speak at sentencing. Defendant and the Government also waived their right to file objections.

**SIGNED this 22nd day of July, 2011.**

  
AMOS L. MAZZANT  
UNITED STATES MAGISTRATE JUDGE